

STATE OF MICHIGAN
COURT OF APPEALS

In re L. T. HARDIMAN, Minor.

UNPUBLISHED
October 20, 2015

No. 326079
Oakland Circuit Court
Family Division
LC No. 14-818319-NA

Before: BOONSTRA, P.J., and SAAD and HOEKSTRA, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's order that terminated her parental rights over her minor child, LH, pursuant to MCL 712A.19b(3)(g), (i), (j), and (l).¹ For the reasons provided below, we affirm.

Respondent argues that the trial court erred when it found that statutory grounds for terminating her parental rights had been shown by clear and convincing evidence. We disagree. A trial court's factual findings, including its determination that a statutory ground for termination of parental rights has been met, are reviewed for clear error. *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *Id.*

A trial court must terminate a respondent's parental rights if it finds that a statutory ground under MCL 712A.19b(3) has been established by clear and convincing evidence and that termination is in the children's best interests. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). The trial court terminated respondent's parental rights under MCL 712A.19b(3)(g), (i), (j), and (l), which provide:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence, 1 or more of the following:

¹ The child's father's rights were terminated as well, but those terminations are not the subject of this appeal. Hence, our use of the term "respondent" in this opinion will refer only to respondent-mother.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(i) Parental rights to 1 or more siblings of the child have been terminated due to serious and chronic neglect or physical or sexual abuse, and prior attempts to rehabilitate the parents have been unsuccessful.

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

* * *

(l) The parent's rights to another child were terminated as a result of proceedings under [MCL 712A.2(b)] or a similar law of another state.

At the outset, we note that from a procedural standpoint, respondent cannot prevail on appeal. The trial court found that four statutory grounds were proven by clear and convincing evidence, but on appeal, respondent only challenges the trial court's findings on two of those grounds.² This is inadequate because even if respondent were correct on those briefed issues, the court's findings on the other two grounds would remain undisturbed, and that would be sufficient to support termination. See *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009) (stating that only one ground for termination need be proven); *City of Riverview v Sibley Limestone*, 270 Mich App 627, 638; 716 NW2d 615 (2006) ("[A] party's failure to brief an issue that necessarily must be reached precludes appellate relief."); *Derderian v Genesys Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004) (stating that when an appellant fails to dispute the basis of the trial court's ruling, this Court need not consider granting any relief).

In any event, we hold that the trial court did not clearly err in finding that MCL 712A.19b(3)(g), (i), (j), and (l) were proven by clear and convincing evidence. Regarding grounds (g) and (j), there was evidence that respondent continued to live in a home of filth with pit bulls that urinated and defecated inside the home. There also was evidence that respondent failed to get any medical care for LH. This includes the failure to get any medical care when respondent, herself, admitted she had concerns about LH's health. Respondent was concerned that LH had not had a bowel movement in his first two weeks of life and had some respiratory

² Respondent referenced statutory grounds MCL 712A.19b(3)(f), (g), and (j) in her statement of the questions presented in her brief on appeal, but (f) was not even a ground that was relied on by the trial court. Thus, respondent completely ignores grounds (i) and (l).

issues, yet never visited a doctor. When DHHS visited respondent's home two weeks after LH's birth, the room designated as LH's bedroom was filthy and being used as a dumping ground for various items, including a mattress that had a large portion missing because it appeared to have been torn apart by dogs. The DPS worker could not even enter the room because it was so filled with clutter. Additionally, before DPS removed LH, respondent left LH with a friend but failed to give the friend any authority to provide medical care to LH. If this were just a short time, providing any authority would not have been necessary, but the DPS worker testified that LH was left in the friend's care for a potentially long-term situation. This evidence was more than enough to prove that respondent failed to provide proper care and custody to LH. Further, given that these circumstances of neglect were similar to those encountered years earlier when respondent had her parental rights terminated to her other seven children, the court did not clearly err in finding that she would not be able to provide proper care and custody within a reasonable amount of time. Finally, this same evidence also supports the trial court's finding that LH would be harmed if returned to respondent.

As previously noted, respondent on appeal completely ignores the trial court's reliance on statutory grounds MCL 712A.19b(3)(i) and (l). It was undisputed that respondent had her parental rights terminated to her other seven children in 2010 after allegations of serious and chronic neglect were raised. These terminations happened after respondent had been involved in a treatment plan for two years. Accordingly, the court did not clearly err in finding that both subsections (i) and (l) were proven by clear and convincing evidence.

Respondent also argues that the trial court erred in finding that termination of her parental rights was in the best interests of LH. We again disagree. We review a trial court's decision regarding a child's best interests for clear error. *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

"If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights" MCL 712A.19b(5).

To determine whether termination of parental rights is in a child's best interests, the court should consider a wide variety of factors that may include the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. [*In re White*, 303 Mich App at 713 (quotation marks and citations omitted).]

The evidence presented did not establish that there was any significant bond between respondent and LH. After returning to Michigan, respondent left LH with at least two different individuals for extended periods of time. While respondent testified that she did this to allow her to get her house in order, DHHS's visit to the home two weeks after LH's birth revealed that there was no sign of any progress in the house. The home smelled of animal urine and feces, and the room dedicated for LH was being used as a place to hoard various items, including a mattress that appeared to have been ripped apart by the dogs. The condition of the home environment also supports a finding that respondent lacked the appropriate ability to parent. Even with knowing that LH was going to be born months in advance, respondent did nothing to make the

home suitable for LH's arrival. The only sign of anything being done was after DHHS made its first visit to the home two weeks after LH was born and noted the deplorable conditions. Further, respondent had concerns for LH's health, but she never got any medical care for LH. In contrast, LH was thriving in foster care. He was placed with his biological siblings, his medical needs were being met, and he was meeting all of his developmental milestones. Additionally, the foster parents desired to adopt LH, which would provide permanence, stability, and finality. Accordingly, from all of the evidence available, the trial court did not clearly err in finding that termination of respondent's parental rights was in LH's best interests.

Affirmed.

/s/ Mark T. Boonstra
/s/ Henry William Saad
/s/ Joel P. Hoekstra